

HONORABLE ROBERT S. LASNIK

MICHAEL E. McFARLAND, JR., #23000
Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632
Attorneys for Defendant

IN UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ANA LUGO,

Plaintiff,

vs.

HIGHLINE SCHOOL DISTRICT,

Defendant.

Case No. 2:21-cv-00147-RSL

DEFENDANT'S ANSWER TO
PLAINTIFF'S COMPLAINT AND
DEMAND FOR JURY

COMES NOW Defendant HIGHLINE SCHOOL DISTRICT ("HSD") by
and through its attorneys of record of the law firm of Evans, Craven & Lackie,
P.S., and enter this Answer to Plaintiff's Complaint for Violations of USERRA,
Demand for Damages and Trial by Jury, as follows:

I. PARTIES AND JURISDICTION

1.1 Admit.

1.2 Admit.

ANSWER TO PLAINTIFF'S COMPLAINT AND
DEMAND FOR JURY - page 1

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

1 2.8 HSD denies the allegation contained in Paragraph 2.8 of Plaintiff's
2 Complaint.
3

4 2.9 Admit.

5 2.10 HSD is without sufficient information to admit or deny the
6 allegations contained in Paragraph 2.10 of Plaintiff's Complaint and therefore
7 deny the same.
8
9

10 2.11 HSD denies the allegations contained in Paragraph 2.11 of
11 Plaintiff's Complaint.
12

13 2.12 HSD denies the allegations contained in Paragraph 2.12 of
14 Plaintiff's Complaint.
15

16 2.13 HSD denies the allegations contained in Paragraph 2.13 of
17 Plaintiff's Complaint.
18

19 2.14 HSD denies the allegations contained in Paragraph 2.14 of
20 Plaintiff's Complaint.
21

22 2.15 HSD denies the allegation contained in Paragraph 2.15 of Plaintiff's
23 Complaint.
24

25 2.16 HSD is without sufficient information to admit or deny the
26 allegations contained in Paragraph 2.16 of Plaintiff's Complaint and therefore
27 deny the same.
28

29 ANSWER TO PLAINTIFF'S COMPLAINT AND
30 DEMAND FOR JURY - page 3

Evans, Craven & Lackie, P.C.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

1 2.17 HSD is without sufficient information to admit or deny the
2 allegations contained in Paragraph 2.17 of Plaintiff's Complaint and therefore
3 deny the same.
4

5 2.18 HSD is without sufficient information to admit or deny the
6 allegations contained in Paragraph 2.18 of Plaintiff's Complaint and therefore
7 deny the same.
8
9

10 2.19 Admit.

11 2.20 Admit.

12 2.21 HSD is without sufficient information to admit or deny the
13 allegations contained in Paragraph 2.21 of Plaintiff's Complaint and therefore
14 deny the same.
15
16

17 2.22 HSD admits that in July 2019, Plaintiff called Laura Castaneda and
18 advised her that her military leave had been extended to January 2020. HSD is
19 without sufficient information to admit or deny the remaining allegations in
20 Paragraph 2.22 and therefore denies the same.
21
22

23 2.23 HSD admits that on November 4, 2019, Plaintiff emailed Candy
24 Yarbrough a letter "explaining [her] symptoms" and asking how to get the letter
25 to her neurologist. HSD admits that Ms. Castaneda thereafter emailed Plaintiff
26 as depicted in Paragraph 2.23 of Plaintiff's Complaint.
27
28

29 ANSWER TO PLAINTIFF'S COMPLAINT AND
30 DEMAND FOR JURY - page 4

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

1 2.24 HSD is without sufficient information to admit or deny the
2 allegations contained in Paragraph 2.24 of Plaintiff's Complaint and therefore
3 deny the same.
4

5 2.25 HSD denies the allegations contained in Paragraph 2.25 of
6 Plaintiff's Complaint.
7

8 2.26 HSD denies the allegations contained in Paragraph 2.26 of
9 Plaintiff's Complaint.
10

11 2.27 HSD admits that Laura Castaneda had a phone conversation with
12 Plaintiff around February 2020, but denies the allegations contained in Paragraph
13 2.27 of Plaintiff's Complaint regarding the content of that conversation.
14

15 2.28 HSD denies the allegations contained in Paragraph 2.28 of
16 Plaintiff's Complaint.
17

18 2.29 Admit.
19

20 2.30 HSD denies the allegations contained in Paragraph 2.30 of
21 Plaintiff's Complaint.
22

23 2.31 HSD denies the allegations contained in Paragraph 2.31 of
24 Plaintiff's Complaint.
25

26 2.32 Admit.
27

1 2.33 HSD denies the allegations contained in Paragraph 2.33 of
2 Plaintiff's Complaint.
3

4 2.34 Admit.
5

6 2.35 HSD is without sufficient information to admit or deny that
7 DOL/VETS conducted an investigation, but admit that DOL/VETS incorrectly
8 concluded that HSD violated USERRA.
9

10 2.36 HSD admits that the District then offered to reemploy Ms. Lugo.
11 HSD denies the remaining allegations contained in Paragraph 2.36 of Plaintiff's
12 Complaint.
13

14 2.37 Paragraph 2.37 of Plaintiff's Complaint consists of legal
15 conclusions to which no response is deemed necessary. To the extent a response
16 is deemed necessary, HSD deny all allegations in this paragraph.
17
18

19 2.38 Admit.
20

21 **III. CAUSES OF ACTION**

22 **CAUSE OF ACTION NO. 1- VIOLATION OF 38 U.S.C. § 4312-4313**

23 3.1 Paragraph 3.1 of Plaintiff's Complaint consists of legal conclusions
24 to which no response is deemed necessary. To the extent a response is deemed
25 necessary, HSD denies all allegations in this paragraph.
26
27

28 3.2 Admit.
29

1 3.3 Admit.

2 3.4 HSD is without sufficient information to admit or deny the
3
4 allegations contained in Paragraph 3.4 of Plaintiff's Complaint and therefore
5 deny the same.
6

7 3.5 HSD denies the allegations contained in Paragraph 3.5 of Plaintiff's
8
9 Complaint.

10 3.6 Paragraph 3.6 of Plaintiff's Complaint consists of legal conclusions
11
12 to which no response is deemed necessary. To the extent a response is deemed
13 necessary, HSD denies all allegations in this paragraph.
14

15 3.7 HSD denies the allegations contained in Paragraph 3.7 of Plaintiff's
16
17 Complaint.

18 3.8 HSD denies the allegations contained in Paragraph 3.8 of Plaintiff's
19
20 Complaint.

21 3.9 HSD denies the allegations contained in Paragraph 3.9 of Plaintiff's
22
23 Complaint.

24 3.10 HSD denies the allegations contained in Paragraph 3.10 of
25
26 Plaintiff's Complaint.

27 ///

28 ///

29 ANSWER TO PLAINTIFF'S COMPLAINT AND
30 DEMAND FOR JURY - page 7

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

CAUSE OF ACTION NO. 2 – VIOLATION OF RCW 49.60.180

3.11 Paragraph 3.11 of Plaintiff's Complaint consists of legal conclusions to which no response is deemed necessary. To the extent a response is deemed necessary, HSD denies all allegations in this paragraph.

3.12 HSD denies the allegations contained in Paragraph 3.12 of Plaintiff's Complaint.

3.13 HSD denies the allegations contained in Paragraph 3.13 of Plaintiff's Complaint.

CLAIM FOR LIQUIDATED DAMAGES

3.14 Paragraph 3.14 of Plaintiff's Complaint consists of legal conclusions to which no response is deemed necessary. To the extent a response is deemed necessary, HSD denies all allegations of liability.

3.15 Paragraph 3.15 of Plaintiff's Complaint consists of legal conclusions to which no response is deemed necessary. To the extent a response is deemed necessary, HSD denies all allegations of liability.

IV. PRAYER FOR RELIEF

HSD denies that Plaintiff is entitled to any relief from HSD in this matter, and further denies the existence, nature and extent of Plaintiff's claimed injuries and damages.

ANSWER TO PLAINTIFF'S COMPLAINT AND
DEMAND FOR JURY - page 8

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

JURY DEMAND

In accordance with F.R.C.P. 38 and pursuant to the Seventh Amendment, Defendant hereby joins in Plaintiff's demand that this matter appear before a jury.

AFFIARMATIVE DEFENSES

1. Plaintiff failed to seek reemployment with Defendant upon her return from leave, and as such, she failed to state a claim upon which relief can be granted;

2. Plaintiff failed to maintain her teaching certificate as required by Washington law, and therefore was not "qualified" as required by USERRA in order to return to her teaching position with Defendant.

3. Plaintiff has failed to mitigate her damages, if any.

4. Plaintiff's claimed injuries and damages are the result of Plaintiff's own actions or inactions.

DATED this 22nd day of March, 2021.

EVANS, CRAVEN & LACKIE, P.S.

By: s/ Michael E. McFarland, Jr.
MICHAEL E. McFARLAND, JR., #23000
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Matthew Z. Crotty
Crotty & Son Law Firm PLLC
905 W. Riverside, Suite 404
Spokane, WA 99201
Email: matt@crottyandson.com

Thomas G. Jarrard
The Law Office of Thomas G. Jarrard, PLLC
1020 N. Washington Street
Spokane, WA 99201
Email: tjarrard@att.net

s/ Michael E. McFarland, Jr.
MICHAEL E. McFARLAND, #23000
Attorney for Defendant
Evans, Craven & Lackie, P.S.
818 W. Riverside Ave., Suite 250
Spokane, Washington 99201
(509) 455-5200
(509) 455-3632 Facsimile
MMcFarland@ecl-law.com

ANSWER TO PLAINTIFF'S COMPLAINT AND
DEMAND FOR JURY - page 10

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632